HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.7123 of 2007

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Between:

M. Rajesham and four others. …Petitioners

And

Government of Andhra Pradesh,
represented by its Chief Secretary,
Secretariat, Hyderabad and four others. ...Respondents.

:: O R D E R ::

Counsel for the petitioners : Sri M. Rama Rao

9th April, 2007

Per G.S. Singhvi, C.J.

Although the framers of the Constitution of India enacted Articles 32 and 226 and empowered the Supreme Court and the High Courts to issue directions, orders or writs including the writs in the nature of mandamus, certiorari, prohibition, quo warranto and habeas corpus for protecting the constitutional and legal rights of the people, and to provide inexpensive and quick remedy against the arbitrary exercise of power by the executive apparatus of the State, for

majority of people, these remedies have remained a distant reality. Till three decades ago, the have-nots and disadvantaged sections of the society could not even dream of availing the constitutional remedies for vindication of their rights. However, the things started changing in early 1980s when the superior courts evolved the mechanism of entertaining petitions filed 'pro bono publico' for protection of the constitutional and legal rights of the disadvantaged sections of the society. Initially, the courts entertained letters and petitions filed by public spirited persons for espousing the cause of underprivileged classes of the society who could not, on account of sheer poverty, ignorance, illiteracy and other similar disabilities, seek protection of their rights through judicial intervention by the superior courts. In next 15 years, the Supreme Court and High Courts were flooded with petitions filed by way of public interest litigation and large sections of the society were benefited by the orders of the courts. However, with the passage of time, this innovative jurisdiction started getting abused and misused by unscrupulous persons, who filed petitions in the name of public interest litigation for settling their personal scores or for sheer publicity. Adjudication of these petitions consumes substantial and valuable time of the superior courts, which could otherwise be devoted for deciding the cases of the people who have been waiting for years together. The Supreme Court realized that the helping hand extended by the court system to the needy and poor was being misused for personal and political gains or as a publicity gamut. In order to prevent the abuse of the court system by these persons, the Supreme Court has time and again observed that frivolous and vexatious petitions filed in the name of public interest litigation should not be entertained. I n **Guruvayoor Devaswom Managing Committee v. C.K. Rajan**[1], the Supreme Court referred to large number of judicial precedents on the subject and laid down guidelines for entertaining petitions filed in public interest. Some of the guidelines are as under:

"i) The Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court;

ii) The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfill its constitutional promises;

iii) Whenever injustice is meted out to a large number of people, the Court will not hesitate in stepping in. Articles 14 and 21 of the Constitution of India as well as the International Conventions on Human Rights provide for reasonable and fair trial;

iv) The common rule of locus standi is relaxed so as to enable the Court to look into the grievances complained on behalf of the poor, the depraved (sic), the illiterate and the disabled who cannot vindicate the legal wrong or legal injury caused to them for any violation of any constitutional or legal right;

v) When the Court is prima facie satisfied about variation of any constitutional right of a group of people belonging to the disadvantaged category, it may not allow the State or the Government from raising the question as to the maintainability of the petition;

vi) The dispute between two warring groups purely in the realm of private law would not be allowed to be agitated as a public interest litigation."

In **Ashok Kumar Pandey v. State of West Bengal**[2], the Supreme Court held that the petitions filed in the name of public interest litigation should be entertained with great caution and circumspection. Paragraphs 11 and 12 of that judgment read as under:

"11. It is depressing to note that on account of such trumpery proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental

rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death and facing the gallows under untold agony, persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters — government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for the glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the court never moves, which piquant situation creates frustration in the minds of genuine litigants and resultantly, they lose faith in the administration of our judicial system.

12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or a member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations. Some persons with vested

interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases, with exemplary costs."

In **Dattaraj Nathuji Thaware v. State of Maharashtra**[3], the Supreme Court reiterated the legal position in the following principles:

"The court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike a balance between two conflicting interests: (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act ruthlessly while dealing with impostors and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect.

Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good.

No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions.

Today people rush to courts to file cases in profusion under this attractive name of public interest. They must inspire

confidence in courts and among the public.

As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases."

We have prefaced disposal of the writ petition filed by M. Rajesham and four others for issue of a direction to respondent Nos.1 to 3 to seize the records of Self-Employed Workers Society (for short, 'the society'), Vemulavada, Karimnagar District, and to order a probe into the possible misappropriation of funds by its President, Ch. Rajeswara Rao (respondent No.4) by noticing the caution administered by the Supreme Court because, after hearing Sri M. Rama Rao, we are convinced that the petitioners have approached the Court with ulterior motive and they are not entitled to relief under Article 226 of the Constitution of India.

A perusal of the record shows that two of the petitioners namely, D. Prabhakar Rao (petitioner No.5) and M. Rajesham (petitioner No.1) are members of a political outfit operating in the State of Andhra Pradesh i.e. Telugu Desam Party. They have been joined by three others in filing this petition in the name of public interest litigation and made prayer, to which reference has been made hereinabove.

In the affidavit filed by him, petitioner No.5, D. Prabhakar Rao has averred that the society was formed by respondent No.4 in 1990 and he became its self-styled Chairman at the initiation of his son Chennamaneni Ramesh, who is settled in Germany and who agreed to provide funds for social activities to be taken up by the society. The aims and objects of the society are said to be to take up construction of

school building, drainage and laying roads to villages connecting towns, digging of bore wells, supply of electric pump sets to farmers, repair of irrigation works etc. According to the deponent, the society receives 40% of its funds from the State Government, 40% from the German Association headed by the son of respondent No.4 and 20% from the public. Sri D. Prabhakara Rao has alleged that respondent No.4 is continuing as Chairman without conducting election, he is not allowing any other member to collect funds or supervise the works and has become sole administrator and executor of the activities of the society. It has been further alleged that the society has collected funds to the tune of crores of rupees, but no proper accounting is done and there is lot of scope for misappropriation of funds and that under the guise of development works, respondent No.4 has misappropriated lakhs of rupees by playing fraud. All this is evident from the averments contained in the two paragraphs of the affidavit of Sri D. Prabhakara Rao, which have been marked as paragraph 3, are extracted below:

> "3. We are the residents of Sircilla Mandal, Karimnagar District. Our assembly constituency is Sircilla. We are voters and casting our votes in the elections for assembly and other elections. We are very much interested in the development of our assembly constituency. Respondent No.4 also belongs to Sircilla Constituency. He was originally for about 50 years in Communist Party. About 4 or 5 years back, he resigned from Communist Party and joined in Telugu Desam as the said party was ruling then. The 3rd (4th) respondent's son Chennamaneni Ramesh is now residing in Germany and working as a doctor. The said Chennamaneni Ramesh was having an intention to settle in India and to contest for M.L.A. from Sircilla constituency. The reasons best known to him, he dropped the said idea and now staying in Germany. The 4th respondent had formed a society in the name and style as "Self-Employed Workers Society" being Regd.No.2882/90 situated at Vemulavada, Karimnagar District, in short SEWS in the year 1990. The 4th respondent has become self-styled Chairman of SEWS with the initiation of his son Ch. Ramesh who is in Germany accepted to provide funds from Germany

for the social activities to be taken up by the said society. The aim and object of the SEWS is that to take up construction of school buildings, drainages and laying roads to the villages connecting the towns, digging of bore wells, supply of electric pumping sets to farmers, repair of irrigation works etc. For undertaking the said works, fund contribution is 20% from the public, 40% from the State Government and 40% from the German Association headed by the son of 4th respondent viz. Chennamaneni Ramesh at Germany. The SEWS itself is undertaking the works with its own machinery and without following the procedure to be adopted for undertaking the works i.e. without calling for tenders. As the 4th respondent is self-styled Chairman elected without conducting elections, he is not allowing any other member either in collection of funds or supervising the works. The 4th respondent is the sole administrator and executor of SEWS activities. The 4th respondent conceals the actual amounts which have been received and the expenditure on the above said works by the SEWS. The SEWS collected the funds to the tune of crores of rupees for the above said works. There is no control over the funds by the Government. The SEWS machinery itself is spending amounts without any proper accounting and without adopting the normal procedure like calling the tenders and entrusting the works. Thus, there is a lot of scope for misappropriating the funds as there is no audit or any control by the Government either on the works or the funds. The 4th respondent under the guise of development works by playing fraud misappropriated lakhs of rupees. The 4th respondent by misappropriating the SEWS funds amassed huge wealth and acquired assets like constructing palatial building at Jubilee Hills, Hyderabad and a building at Vemulavada whichis named as Sangeeta Nilayam and also agricultural lands and now his assets are worth about 100 Crores.

3. As we are interested in the proper utilization of the SEWS funds, we have made a representation on 14-4-2006 and on 10-12-2006 to the Chief Minister of Andhra Pradesh and forwarding copies to Chief Secretary and to the Principal Secretary, Government of Andhra Pradesh highlighting all the above said facts and requested to take appropriate action against the 4th respondent who amassed huge wealth by misappropriating the SEWS funds. We also requested to

entrust the matter to the CB-CID or to the Enforcement Cell to probe into the allegations made by us. There is no proper response either by the Chief Minister or by the Secretaries."

The petitioners have also claimed that they are residents of Sircilla Constituency and are interested in the development of the constituency and, therefore, they are seeking the Court's intervention for ordering an enquiry into the alleged misappropriation of funds. They are said to have made representations dated 14-4-2006 and 10-12-2006 to the Chief Minister of the State, without any tangible result.

We have heard Sri M. Rama Rao, learned counsel for the petitioners and are convinced that the writ petition is a frivolous piece of litigation and is liable to be dismissed summarily because,

i) the petitioners have failed to establish their locus to seek investigation into the affairs of the society. They are neither the members of the society nor they have made any contribution to the cause of development of the area. They are merely bystanders and meddlesome interlopers. The mere fact that two of them belong to a political outfit is not sufficient to entertain their prayer for issue of a direction to the government to make a probe into the affairs of the society;

ii) the petitioners have not produced any evidence regarding funding of the society by the State Government or the public;

iii) the petitioners are not shown to have made any representation to the Registrar of Societies with the request to make an enquiry into the affairs of the society, and

iv) the allegations contained in the affidavit of D. Prabhakar Rao are vague to the core.

Therefore, keeping in view the words of caution administered by the Supreme Court, we hold that the petitioners have miserably failed

to make out a case for invoking the Court's jurisdiction under Article 226 of the Constitution of India pro bono publico.

With the above observation, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.9083 of 2007 filed by the petitioners for interim relief is also dismissed.

G.S.SINGHVI, C.J.

9th April, 2007

C.V.NAGARJUNA REDDY, J.

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[1] (2003) 7 SCC 546

[2] (2004) 3 SCC 349

[3] (2005) 1 SCC 590